

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT,

OAH Case No. 2015110501

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CAPISTRANO UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015120001

ORDER DENYING REQUEST FOR  
CONTINUANCE

On February 19, 2016, the parties filed a joint request to continue the hearing dates in this matter with the Office of Administrative Hearings for about three weeks, based upon the parties' desire to continue meaningful settlement discussions.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. This matter has been pending since Student filed his initial complaint on November 10, 2015, and Capistrano Unified School District on November 25, 2015. Since then, the matters were consolidated, continued on December 22, 2015, and the scheduled mediation was not held and never rescheduled by the parties. The only reason stated for the current continuance request is the parties' desire to continue to engage in meaningful settlement discussion, which does not constitute a significant, unanticipated change in the status of this case as a result of which this case will not be ready for hearing. Further, the joint request is not supported by a sworn declaration or other admissible evidence of circumstances warranting further delay for good cause.

Therefore, the parties failed to establish good cause for a continuance and the joint motion to continue is denied.

IT IS SO ORDERED.

DATE: February 19, 2016

DocuSigned by:  
*Peter Paul Castillo*

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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings